

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of:	)	
	)	
Incentive Auction of Upper Microwave	)	
Flexible Use Service Licenses in the Upper 37	)	
GHz, 39 GHz, and 47 GHz Bands for Next-	)	
Generation Wireless Services	)	AU Docket No. 19-59
	)	
Comment Sought on Competitive Bidding	)	
Procedures for Auction 103	)	
	)	

**REPLY COMMENTS OF AT&T INC.**

AT&T Services, Inc., on behalf of the subsidiaries and affiliates of AT&T Inc. (collectively, “AT&T”), hereby submits the following reply to comments filed in response to the Federal Communications Commission’s (“Commission” or “FCC”) *Auction 103 Procedures Notice*.<sup>1</sup> Like AT&T,<sup>2</sup> most commenters generally support the framework proposed by the Commission for the auction of 37 GHz, 39 GHz, and 47 GHz Upper Microwave Flexible Use Service (“UMFUS”) licenses, although commenters have proposed a few refinements and clarifications. As discussed below, some of those procedural modifications have merit and will facilitate the auction process, while others may create opportunities for confusion or gaming of the process. AT&T’s views on the specific proposals are discussed below.<sup>3</sup>

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<sup>1</sup> Incentive Auction of Upper Microwave Flexible Use Service Licenses in the Upper 37 GHz, 39 GHz, and 47 GHz Bands for Next-Generation Wireless Services, Comment Sought on Competitive Bidding Procedures for Auction 103, Public Notice, AU Docket No. 19-59 (rel. Apr. 15, 2019) (“*Auction 103 Procedures Notice*”).

<sup>2</sup> Comments of AT&T Inc., AU Docket 19-59 (filed May 15, 2019) (“*AT&T Comments*”).

<sup>3</sup> Several comments also address the size of the license areas for Auction 103 or the licensing of white space. Because these matters were settled in the spectrum allocation rulemaking proceeding, these comments are untimely filed petitions for reconsideration. See *Use of Spectrum Bands Above 24 GHz for Mobile Radio Services, Fourth Report and Order*, FCC 18-180 at ¶¶8, 28 (Dec. 12, 2018).

Importantly, the record overwhelmingly supports the overall framework proposed in the *Auction 103 Procedures Notice*.<sup>4</sup> Accordingly, the Commission has a solid procedural basis to move forward and quickly finalize the auction process proposed for Auction 103. Like AT&T, however, several commenters have also offered modifications to minor aspects of the auction procedures. AT&T, for example, suggested that the *Auction 103 Procedures Notice* proposal to require assignment round bidders to price a range of infeasible, spurious block assignments was not in the public interest.<sup>5</sup> Because the potential for “gaming” the assignment round is not inherently inefficient, and because requiring bidders to bid on phony assignments creates unnecessary burdens, AT&T continues to believe the Commission should limit assignment round choices to feasible options.

There were also additional modifications proposed on the record that appear meritorious, some of which may be minor, but would facilitate the auction. For example, T-Mobile suggested “data file format specifications for the clock phase and assignment phase of Auction 103, including any updates, should be released before the filing window for short-form applications

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<sup>4</sup> See, e.g., Reply Comments of California Internet, L.P. dba GeoLinks, AU Docket 19-59 (filed May 15, 2019) (“GeoLinks applauds the Commission’s efforts to make more spectrum resources available for wireless uses and for seeking comment on ways to structure the upcoming Auction 103 to try to ensure participation from smaller companies,” and noting “these efforts are a step in the right direction”); Comments of PVT Networks, Inc., AU Docket 19-59 (filed May 15, 2019) (“PVT generally supports the FCC’s proposal to use an ascending clock auction format for generic license blocks offered in Auction 103, followed by a sealed bid assignment phase for frequency-specific license assignments”); Comments of T-Mobile USA, Inc., AU Docket 19-59 (filed May 15, 2019) (“*T-Mobile Comments*”) (“T-Mobile applauds the Commission for taking the next steps to release more high-band spectrum and generally supports the auction procedures proposed in the Public Notice”); Comments of Verizon, AU Docket 19-59 (filed May 15, 2019) (“*Verizon Comments*”) (“The Commission’s Auction Procedures PN should help implement the directives of the Spectrum Frontiers Fourth R&O so that the 37 GHz, reconfigured 39 GHz, and 47 GHz spectrum is put to its highest and best use”); Comments of the Wireless Internet Service Providers Association, AU Docket 19-59 (filed May 15, 2019) (“*WISPA Comments*”) (“WISPA agrees with many of the Commission’s proposals”).

<sup>5</sup> *AT&T Comments* at 1-4.

closes,”<sup>6</sup> noting that the Auction 102 data file formats were issued only two weeks prior to the beginning of the clock phase. AT&T generally concurs that having the data file formats earlier is preferable, considering that automated systems and processes may have to be updated based on the specifics of the file formats. Independent of how the data file format release occurs relative to the short form filing window, applicants should have at least thirty (30) days to review the formats prior to the start of the auction and make necessary adjustments to their automated systems.

AT&T also supports T-Mobile’s proposal that the Commission’s Auction Bidding System should, for incumbents, display the bidder’s incentive payments as credits on a round-to-round basis.<sup>7</sup> The added information would permit incumbents that are both buying and selling to quickly net out the amounts and therefore make better and more informed decisions regarding their total monetary outlay for the auction. As long as providing the information is not particularly onerous or does not cause a significant delay in the software implementation, AT&T concurs that the information would be useful and should be provided. There is, additionally, no downside risk to providing the information because the information would be revealed only to the entity receiving the credit.

AT&T also concurs with the suggestion that “the upfront payments and minimum opening bid amounts for the 47 GHz band should be reduced to reflect the utility of the band relative to the Upper 37 GHz and 39 GHz bands.”<sup>8</sup> As the Commission has acknowledged, the 47 GHz licenses are a different product category than the Upper 37 GHz and 39 GHz licenses.<sup>9</sup>

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<sup>6</sup> *T-Mobile Comments* at 2, 3-6.

<sup>7</sup> *Id.* at 2, 7-8.

<sup>8</sup> *Id.* at 2, 8-10.

<sup>9</sup> *Auction 103 Procedures Notice* at ¶34.

There should be no presumption, therefore that “Category M/N and Category P blocks in a PEA” should “be assigned the same number of bidding units.”<sup>10</sup> Although having identical bidding units would “facilitate bidding across categories,”<sup>11</sup> the blocks are not fungible as a pragmatic matter—most importantly in terms of global harmonization, standardization and equipment availability. On that basis, the Commission should consider reducing the number of bidding units for 47 GHz licenses in a PEA relative to the M/N licenses.

Verizon has also pointed out that the use of “Category M/N” to describe the Upper 37 GHz and 39 GHz licenses may create unnecessary software problems for bidders. While AT&T is less concerned about whether the category name is longer than a single character, AT&T notes that the slash character—“/”—has a special meaning in many software programs. Use of that character may cause data to be parsed incorrectly, and therefore may cause software to behave in unexpected ways. While these issues are not insurmountable, switching the product designation to a single letter or “MN” designation, without a slash, seems like a low impact means to avoid potential problems affecting bidding.

In such regards, WISPA unwisely proposed to separate the Category “M” and “N” licenses into two different categories for clock round bidding.<sup>12</sup> AT&T opposes this proposal because contiguity concerns require the Upper 37 GHz and 39 GHz bands to be auctioned together. If the bands were separated, artificial competition would be created among bidders that demand large contiguous swaths of spectrum, a result that would needlessly complicate the auction. For example, if there were multiple bidders that each demanded between 600 MHz and

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<sup>10</sup> *Id.* at ¶54.

<sup>11</sup> *Id.*

<sup>12</sup> *WISPA Comments* at 5-7.

1,000 MHz in the 37.6-40 GHz range, those bidders would have to make an initial bid for one or the other band, even though they may be indifferent between the frequencies themselves. The result could be excess supply in one category and excess demand in the other, creating a price difference between the bands that does not reflect a difference in value. Were there insufficient excess demand to allow bidders to move between the bands, this artificial price difference would likely grow, creating an unreasonable auction outcome. Furthermore, only one bidder with holdings in both products would be able to achieve contiguity in assignment. Therefore, splitting the 37.6-40 GHz band into two separate frequency products would harm the value of the spectrum and compromise its use for 5G.

There were also a few other procedural suggestions that AT&T believes would be counterproductive or should be approached with caution. For example, while AT&T does not necessarily object to the proposal to “set the initial increment at a high percentage for all categories in all PEAs to account for the likelihood that demand will exceed supply,”<sup>13</sup> setting the initial increments too high could lead to inefficiencies. The *Auction 103 Procedures Notice* proposed “an increment that is between 5% and 20%”<sup>14</sup>—AT&T suggests that an increment of 10%, like the increment applied in Auction 102,<sup>15</sup> should be the upper limit. A 10% increment is sufficiently high to efficiently equalize supply and demand, but not so high as to overshoot and create unnecessary complexity for bidders in intra-round bidding.

T-Mobile also has suggested that “when there is no longer excess demand for one category of licenses and excess demand in only a handful of PEAs in the remaining category, the

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<sup>13</sup> *T-Mobile Comments* at 13.

<sup>14</sup> *Auction 103 Procedures Notice* at ¶70.

<sup>15</sup> Auctions of Upper Microwave Flexible Use Licenses For Next-Generation Wireless Services, Public Notice, AU Docket No. 18-85, FCC 18-109 at ¶249 (rel. Aug. 3, 2018).

Commission should increase the number of rounds and/or price increments or take similar measures to accelerate the pace of the auction for the remaining category.”<sup>16</sup> Although nothing should preclude the Commission from utilizing its existing levers to ensure auctions are brought to a rapid close, implementing procedures that accelerate bidding upon the exhaust of excess demand for one product in a market has the potential to lead to strategic bidding. For example, a bidder might attempt to game the two license products—attempt to increase the price of a position in one product while trying to strategically time a move to another product that appears, for the time being to be closed. The proposal also appears unnecessary because the FCC has established mechanisms to ensure that auctions do not drag on, including the ability to increase the number of rounds per day and change auction activity requirements.

As a final matter, the Commission should also reject the proposal “to treat missing bids as bids for the previous round’s processed demand at the new round’s clock price rather than reduce the bidder’s demand to zero”<sup>17</sup>—“missing bids” in this context meaning prior bid positions that have not been reaffirmed by a bidder in a new round, which the Commission currently, and logically, treats as a request to withdraw all demand. The proposal would create a presumption of acceptance when products are offered at a new price that violates the auction contract—in other words, the proposal goes against the basic notion that some active acceptance of a new price is necessary to have a meeting of the minds between buyer and seller. It also inverts what seems to be common sense—that a bidder should proactively do something to commit themselves to increased financial liability, as opposed to having to do something proactive to disengage from increased liability. And, there are relatively simple mechanisms for a bidder to

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<sup>16</sup> *T-Mobile Comments* at 11.

<sup>17</sup> *Id.* at 12.

hold its current position the way the Commission’s software is presently set up.<sup>18</sup> For the same reason, the Commissions should also decline the invitation to implement waivers to address the possibility of a bidder inadvertently failing to submit a bid in a round. In a clock auction, waivers can be used by bidders attempting to game the system—a speculator can sequentially roll up free eligibility to move from many smaller markets in sequential rounds into larger markets that would appear to have closed several rounds prior. Moreover, automatic application of waivers delays the auction where withdrawals are intentional, and manual applications of waivers after bid results have been posted creates significant process problems and adds unnecessary complexity to the bidding schedule. The Commission should continue to rely on its existing procedures—procedures that offer simple and transparent mechanisms to validate bidding decisions—rather than upset established precedent and common sense.

AT&T, as well as the overwhelming majority of commenters in this proceeding, have fundamentally endorsed the Commission’s proposed procedures for the auction of UMFUS spectrum in the Upper 37 GHz, 39 GHz and 47 GHz bands. Aside from a few misplaced requests that are beyond the scope of the notice, commenters’ suggestions have been for relatively minor tweaks to an overall process that has proven to be successful. While some of these suggestions appear meritorious and would offer convenience or clarity to bidders that

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<sup>18</sup> See, generally, Auction 102 Clock Phase Bidding System User Guide; available at: <https://www.fcc.gov/file/15169/download> (“Clock Phase User Guide”). The *Clock Phase User Guide* outlines the Commission’s Auction 102 bidding procedures, including two simple ways that a bidder can hold its position. First, the bidder’s existing position is already entered into the bidding template when a new round starts. All the bidder need do is affirm this position as stated in Section 7.3.1 (Default Bids) and Section 7.3.2 (Submitting Bids). The second method is to download the sample bids file after each round after round 1 (Section 7.6.1). This file has the default position from the prior round. The file can be examined, then re-uploaded and saved as the next round bid. The ability to download the existing position also facilitates the bidder’s ability to use simple text-based tools to compare its new bid submission file against the existing file and identify markets where its position is changing.

would accelerate the timely and efficient conclusion of the auction, the Commission should be wary of other proposals that seek more dramatic changes with the potential for unknown or uneconomic consequences. AT&T urges the Commission to act quickly and consistent with the comments herein.

Respectfully Submitted,

AT&T, INC.

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